

ST 03-0009-GIL 01/10/2003 MANUFACTURER'S PURCHASE CREDIT

Hand tools, protective apparel, and fire and safety equipment used or consumed in a graphic arts production facility (or manufacturing facility) will qualify as production related tangible personal property. See 86 Ill. Adm. Code 130.331. (This is a GIL).

January 10, 2003

Dear Xxxxx:

This letter is in response to your letter dated October 2, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

I have a client who is a supplier of custom imprinted lab coats, shoelace lanyards and patches to a manufacturing concern that produces compact discs (CD's) and digital video discs (DVD's). The manufacturer and their accountant want to consider these items production related tangible personal property qualifying for the Illinois Manufacturer's Purchase Credit (MPC). They are requesting a refund of previously paid state sales tax and have issued a Form ST-16-C, Manufacturer's Purchase Credit Certificate.

We would like some guidance, an opinion as to whether these purchases qualify. It is not a problem to refund the taxes previously paid and take credit for it on the next sales tax return (ST-1) that we file. But we don't want to refund the money and find later that the property does not qualify, that the tax should not have been refunded and credit taken, and that the supplier must now pay it. Of course we also considered that since the manufacturer has certified to us by submitting an ST-16-C that the purchases do qualify that the burden would now fall back on them and should the purchases not qualify, the Department would look to them for payment rather than the supplier (us). But rather than get into a situation that could get 'messy', we'd rather seek clarification now and do the right thing the first time.

We look forward to your response on this. Should you have any questions or need any additional information, please don't hesitate to contact us.

DEPARTMENT'S RESPONSE:

The State of Illinois provides a Manufacturer's Purchase Credit (MPC) in addition to the exemption for manufacturing machinery and equipment. See the enclosed copy of 86 Ill. Adm. Code 130.331. Purchasers of manufacturing machinery and equipment that qualifies for the manufacturing

machinery and equipment exemption earn a credit in an amount equal to a fixed percentage of the tax which would have been incurred under the Use Tax Act or Service Use Tax Act. See 35 ILCS 105/3-85; 35 ILCS 110/3-70.

The credit may be used to satisfy Use Tax or Service Use Tax liability that is incurred on the purchase of production related tangible personal property that does not qualify for the manufacturing machinery and equipment exemption. Subsection (b)(3) of Section 130.331 defines production related tangible personal property as:

- A) All tangible personal property used or consumed in a production related process by a manufacturer in a manufacturing facility in which a manufacturing process described in Section 2-45 of the Retailers' Occupation Tax Act takes place.
- B) All tangible personal property used or consumed in a production related process by a graphic arts producer in a graphic arts production facility in which a graphic arts production process described in Section 2-30 of the Retailers' Occupation Tax Act takes place.
- C) All tangible personal property used or consumed by a manufacturer or graphic arts producer in research and development regardless of use within or without a manufacturing or graphic arts production facility. (See Section 3-85 of the Use Tax Act.)

In reference to the specific items mentioned in your letter, please note that hand tools, protective apparel, and fire and safety equipment may qualify as production related tangible personal property. See subsection (b)(4)(H) of Section 130.331. If the lab coats, shoelace lanyards, and patches are actually used as protective apparel or safety equipment in a production related process in a manufacturing or graphic arts facility, then they may qualify as production related tangible personal property. However, it is more likely that these items would not qualify as production related tangible personal property for purposes of using MPC.

Subsection (h) of Section 130.331 of the Department's administrative rules was added to provide guidance when a retailer chooses to accept an MPC certification (ST-16-C) after a sale has taken place. As noted in that subsection, retailers and servicemen are not required to accept the certifications and are not required to refund the amount of Use Tax or Service Use Tax that was properly paid by the manufacturers or graphic arts producers in exchange for the certificates after the sales have taken place. See Subsection (h)(1) of Section 130.331. However, if a retailer does choose to accept such a certification, you are correct that the Department will generally look to the person providing the certificate for any tax, penalty, and interest that may be due if the items purchased do not qualify as production related tangible personal property.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

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TDC:msk
Enc.